

REMARKS

New and Amended Claims

Claims 10 and 13 have been amended so that the language “wherein said extraction probes are encoded” has been introduced into Claim 10 and eliminated in dependent claim 13. Claim 15 has been amended so that it recites typical Markush language. New claims 89-103 have been added. New claims 89-103 track pending 12-26, as amended, except that they are ultimately dependent upon claim 11 rather than claim 10. New claims 89-103 share support with claims 12-26.

Election/Restrictions

Applicant affirms election to prosecute the invention of Group I, claims 10-26. Claims 27-30 and 39-54 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections – 35 USC § 102

The Court of Appeals for the Federal Circuit has stated that anticipation requires the presence in a single prior art reference of each and every element of the claimed invention. *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984); *Alco Standard Corp. v. Tennessee Valley Auth.*, 1 U.S.P.Q.2d 1337, 1341 (Fed. Cir. 1986). “There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.” *Scripps Clinic v. Genentech Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991) (citations omitted).

Claims 10-12, 17, 19, 20 and 22-26 were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,279,742 to Markell et al. (“Markell et al.”). Markell et al. teaches a method for isolating contaminants from a sample by way of solid phase extraction. Markell et al. uses an extraction medium in which sorptive particles are enmeshed in polytetrafluoroethylene fibril discs. As amended, claims 10-26 and new claims 89-103 require that the “extraction probes are encoded.” As the Examiner acknowledges, Markell et al. does not describe encoded extraction probes. See Office Action at page 6 (“The prior art of record fails to teach or suggest such encoded extraction probes.”).

Accordingly, amended claims 10-26 and new claims 89-103 are not anticipated by Markell et al.

Claim Rejections – 35 USC § 103

Claims 14-16, 18 and 21 were rejected under 35 USC § 103(a) as being unpatentable over Markell et al. in view of U.S. Patent No. 5,766,962 to Childs et al. (“Childs et al.”).

The Examiner states that Markell et al. is different from the instant invention in that there is no teaching of the particular methods and techniques for distinguishing extraction probes and that there is no teaching of proteins used as extraction phases. However, the Examiner states that these deficiencies of Markell et al. are addressed by Childs et al.

As amended, claims 10-26 and new claims 89-103 require that the “extraction probes are encoded.” As the Examiner acknowledges, neither Markell et al. nor Childs et al. describes encoded extraction probes. See Office Action at page 6 (“The prior art of record fails to teach or suggest such encoded extraction probes.”).

Accordingly, amended claims 10-26 and new claims 89-103 are not obvious over Markell et al. in view of Childs et al.

Allowable Subject Matter

Claim 13 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In objecting to claim 13, the Examiner acknowledged that the prior art of record fails to teach or suggest encoded extraction probes. As discussed above, the limitation “wherein said extraction probes are encoded” has been added to independent claim 10 and thus applies to dependent claims 11-26 and 89-103. Amended claim 13 is patentable for the same reason as amended claim 10.

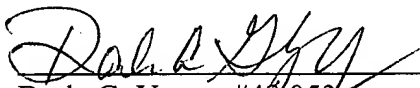
Closing Remarks

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

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